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PATENT APPLICATION
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8/15/97

Date

Gary E. Parker

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Richard D. Holly et al.
Serial No. : 08/252,491
Filed : June 1, 1994
For : HEMATOPOIETIC PROTEIN AND MATERIALS AND
METHODS FOR MAKING IT
Examiner : Spector, L.
Art Unit : 1812 ✓
Docket No.: 93-12C3
Date : August 15, 1997

Assistant Commissioner for Patents
Washington, D.C. 20231

Communication

Sir:

The Examiner's attention is drawn to the file of application Serial No. 08/465,474 ("the `474 application"). the `474 application is owned by the assignees of the present application and deals with related subject matter.

The `474 application went abandoned on November 15, 1996 in view of applicants' failure to timely file a proper response to the Office Action mailed August 14, 1996. The `474 application was filed on June 5, 1995 and is a division of application Serial No. 08/252,491, filed June 1, 1994, which is a CIP of application Serial No. 08/215,203, filed March 21, 1994, which is a CIP of application Serial No. 08/203,197, filed February 25, 1994,

which is a CIP of application Serial No. 08/196,025, filed February 14, 1994.

Briefly, prosecution of the '474 application included a final Office Action mailed on August 14, 1996 setting a shortened statutory period to expire three months thereafter, i.e., November 14, 1996. An amendment was filed by applicants on November 13, 1996. The amendment was not entered (see Office Communication dated December 6, 1996). An interview with the Examiner was held after the shortened statutory period; however, no appeal was filed, and no extension(s) of time were requested or granted. A Notice of Abandonment was mailed by the PTO on March 14, 1997.

A communication from the Examiner in charge of the '474 application was mailed November 26, 1996 (some 12 days after the shortened statutory period expired) and included the following:

1. The following allowable claim is suggested for the purpose of an interference:

A method of determining the presence or absence of mpl ligand nucleic acid comprising specifically hybridizing an oligonucleotide probe of about 20 or more bases selected from the sequence of SEQ ID NO:28 to a test sample nucleic acid and detecting the presence or absence of a specific hybridization product with mpl ligand nucleic acid thereby determining the presence or absence of mpl ligand nucleic acid.

Specific basis for this claim is found throughout the specification. For the 20 nucleotide limitation, SEQ ID NO:22 hybridizes to and amplifies mpl ligand nucleic acid and is 20 nucleotides in length (page 76, lines 18-33). Further support for the general concept of specific detection of SEQ ID NO:28 is found in original claim 38 (page 127) and on page 11, line 34 to page 12, line 17.

The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR 1.605(a).

Applicant should make the suggested claim by the end of the response period of the final rejection of paper No. 8, mailed August 14, 1996. Failure to do so will be considered a disclaimer

of the subject matter of this claim under the provisions of 37 CFR 1.605(a).


The suggested claim was not copied by applicants.

Since the suggested claim was proposed by the Examiner after the shortened statutory period had expired (i.e., the application was abandoned), applicants were not required to copy it and, therefore, did not disclaim the subject matter of the suggested claim.

Therefore, it is not prior art to applicants.

Applicants bring the above to the Examiner's attention in the present application in an abundance of caution in fulfilling their duty of disclosure. The Examiner is invited to telephone the undersigned at (206) 442-6673 if there are any questions or additional information is desired.

Respectfully Submitted,
Richard D. Holly et al.



Gary E. Parker
Registration No. 31,648

Enclosures:
Postcard